

## Message Text

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PAGE 01 STATE 065432  
ORIGIN L-03

INFO OCT-01 NEA-10 ISO-00 SCS-03 SCA-01 USIA-06 /024 R

DRAFTED BY L/M:HFSHAMWELL:MFM

APPROVED BY L/M:KEMALMBORG

SCA/SCS - MRS. MULLIN (SUBS)

NEA/INS - MR. OBER

-----250651Z 089617 /21

R 241544Z MAR 77

FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI

LIMITED OFFICIAL USE STATE 065432

E.O. 11652: N/A

TAGS: OGEN, IN, CPAS, CGEN

SUBJECT: CONSULAR CONVENTION

REF: (A) NEW DELHI 494 (B) NEW DELHI 552  
(C) NEW DELHI 1720

1. THIS CABLE CONTAINS DEPT'S RESPONSES TO REFS (A) AND  
(C). STATE 48844 RESPONDED TO REF (B).

2. FOLLOWING COMMENTS RELATE TO QUESTIONS AND SUGGESTIONS  
RAISED IN PARAS 2-16, REF (A):

A. ARTICLE 1, PARA 5: WE DO NOT SEE NEED FOR MAKING  
SPECIAL REFERENCE TO USIS PREMISES AS PART OF THE "CON-  
SULAR PREMISES." UNLESS THE RECEIVING STATE IMPOSES SOME  
SPECIAL RESTRICTION ON INFORMATION ACTIVITIES, SUCH PRLM-  
ISES WOULD NORMALLY BE REGARDED AS BEING USED FOR THE  
PURPOSE OF THE MISSION. IT SEEMS TO US THAT ARTICLE 25(3),  
SETTING FORTH A CONSULAR OFFICER'S FUNCTIONS AS INCLUDING  
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PAGE 02 STATE 065432

"THE DEVELOPMENT OF ECONOMIC, COMMERCIAL, CULTURAL, SCI-  
ENTIFIC AND TOURIST RELATIONS," IS BROAD ENOUGH TO ENCOM-  
PASS USIS ACTIVITIES AND THAT, THEREFORE, THESE PREMISES  
SHOULD BE REGARDED AS PART OF THE PRIMARY MISSION PREMISES.

TO ADD A SPECIFIC REFERENCE TO USIS OR OTHER SEPARATE  
OPERATIONS RAISES TWO PROBLEMS WHICH SHOULD BE AVOIDED:

(1) EXCEPTING OTHER OPERATIONS NOT SPECIFICALLY MENTIONED  
OR (2) OVEREXPANDING THE DEFINITION TO THE POINT WHERE  
SERIOUS PROBLEMS CONCERNING RECIPROCATION WOULD BE RAISED  
ON THIS END.

B. ARTICLE 4, PARA 1: WE SEE NO REASON FOR ADDING  
"TIME PERMITTING." THE BURDEN IN QUESTION IS A VERY LIGHT  
ONE; HOWEVER, IN AN EMERGENCY SITUATION SOME LEEWAY WOULD  
OBVIOUSLY BE REQUIRED.

C. ARTICLE 5, PARA 4(C): SUGGESTED CHANGE IS ACCEPT-  
ABLE; HOWEVER, DEPT. PREFERS ADDITION OF PHRASE ,OR OTHER  
SEPARATION FROM SERVICE, (OR, ALTERNATIVELY, "OR DISEN-  
GAGEMENT;) AFTER "DISMISSAL," IN LIEU OF "OR RETIREMENT OR  
VOLUNTARY DEPARTURE."

D. ARTICLE 13: THIS ISSUE OF POUCH USE HAS BEEN  
DEALT WITH IN SHAMWELL/KREISBERG LETTER OF JANUARY 13.

E. ARTICLE 13, PARA 5: THIS CHANGE APPEARS UNNECES-  
SARY. IS THERE A DISTINCTION BETWEEN "AD HOC" AND "NON-  
PROFESSIONAL?"

F. ARTICLE 19, PARA 1: GOOD CHANGE UNDER THE  
CIRCUMSTANCES. O.K.

G. ARTICLE 20, PARA 1: O.K.

H. ARTICLE 20, PARA 2(A): SEE SHAMWELL/KREISBERG  
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PAGE 03 STATE 065432

LETTER.

I. ARTICLE 19, PARA 2: THIS SUGGESTION IS CONFUSING,  
LANGUAGE CONTAINED IN CURRENT DRAFT APPEARS BROAD ENOUGH  
TO COVER PROBLEM IDENTIFIED. ADDITION OF "SERVICES"  
RAISES QUESTIONS AS TO HOW ONE CAN "OWN, HOLD, LEASE OR  
OTHERWISE POSSESS" THEM.

J. ARTICLE 21, PARAS 2 AND 3: CURRENT U.S. RESTRIC-  
TIONS ON IMPORTATION OF AUTOMOBILE BY DIPLOMATIC MISSION  
PERSONNEL (REFERRED TO BY REFERENCE IN DRAFT ARTICLE)  
MAKE INCLUSION OF PROVISIONS ON UNLIMITED IMPORTATION OF  
THESE ITEMS UNWORKABLE FROM THE STANDPOINT OF RECIPROCITY.  
WHAT SPECIFIC PROBLEM IS INVOLVED?

K. ARTICLE 27, PARA 1: THIS LANGUAGE IS CUSTOMARY,  
AND THERE IS SUBSTANTIAL REASON THEREFOR IN LIGHT OF RE-  
STRICTIONS ON LEGAL REPRESENTATION IN THE U.S. EMBASSY'S

CONCERN REALLY RELATES MORE TO APPLICATION OF ARTICLE 39,  
PARA 6.

L. ARTICLE 27, PARA 2: THE REPRESENTATIONAL FUNCTIES  
REFERRED TO IN ARTICLE 27 DO NOT OVERLAP WITH THE CONSULAR  
PROTECTION FUNCTIONS OF ARTICLE 39. EXPERIENCE HAS NOT  
DEMONSTRATED A PROBLEM IN THIS REGARD.

M. ARTICLE 39, PARA 5: THE LANGUAGE IN QUESTION IS  
NOT LIMITING. THERE IS NOTHING TO PREVENT A CONSULAR  
OFFICER FROM REQUESTING OR THE RECEIVING STATE FROM  
GRANTING VISITS AT INTERVALS OF LESS THAN ONE CALENDAR  
MONTH (I.E., 30-31 DAYS). IF EMBASSY BELIEVES THAT SPECI-  
FICATION OF A SHORTER PERIOD IS WORKABLE, DEPT. HAS NO  
OBJECTION. SUGGEST, THEREFORE, THAT "ONE MONTH" AT  
END OF SENTENCE BE DELETED AND TIME PERIOD BE LEFT BLANK  
PENDING NEGOTIATIONS.  
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PAGE 04 STATE 065432

N. ARTICLE 39, PARA 6: IN DEPT'S VIEW, ORIGINAL  
FORMULATION IS SAME AS PROPOSED AMENDMENT. NO OBJECTION,  
HOWEVER, TO THE CHANGE.

O. ALL TYPOS HAVE BEEN CORRECTED.

3. RE CONTENTS REF (C), DEPT. APPRECIATES INFORMATION,  
BUT SEES LITTLE RELEVANCE TO ARTICLE 24. IN ADDITION,  
SHORT OF NEGOTIATION OF NATIONALITY/NATURALIZATION TREATY,  
NOTHING CAN BE DONE TO RESOLVE THE PROBLEM. PRACTICAL  
SOLUTION SEEMS REMOTE AT BEST.

4. SUBJECT TO CONTENTS SEPTTEL ON PROBLEM RAISED REF (B),  
CONVENTION IS NOW READY, SUBJECT TO AMENDMENTS AGREED TO  
ABOVE, FOR SUBMISSION TO GOI AS BASIS FOR PROPOSED NEGOTIATIONS. IT IS, OF COURSE, ONLY A WORKING DOCUMENT,  
EXPRESSING U.S. ASPIRATIONS. IT SHOULD BE PRESENTED AS A  
BASIS FOR NEGOTIATIONS, NOT AS A REQUEST FOR FORMAL COMMENTS BY THE GOI. EXPERIENCE HAS SHOWN THAT EXCHANGES OF  
DRAFTS LEAD TO AVOIDABLE DELAY AND LITTLE SUBSTANTIVE  
PROGRESS. IN OTHER WORDS, USG IS PROPOSING THAT EFFORTS  
TO REACH AGREEMENT BE MADE USING THE U.S. FORMULATION AS  
THE STARTING POINT. ONCE A MEANINGFUL EXCHANGE OF VIEWS  
HAS TAKEN PLACE, REDRAFTING WILL FOLLOW IN THE NORMAL  
COURSE OF THINGS.

5. PLEASE FORWARD TO DEPT. (L/M - SHAMWELL) IDENTICAL-  
COPY OF DRAFT DELIVERED. SAME VERSION WILL BE PRESENTED  
TO INDIAN EMB. HERE.  
VANCE

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## Message Attributes

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**Channel Indicators:** n/a  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
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**Enclosure:** n/a  
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**Errors:** N/A  
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**Original Handling Restrictions:** n/a  
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**Review Exemptions:** n/a  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3006226  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CONSULAR CONVENTION  
**TAGS:** OGEN, CPAS, CGEN, IN  
**To:** NEW DELHI  
**Type:** TE  
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